SENATE BILL No. 91

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-13; IC 6-3.1-26.

Synopsis: Hoosier business investment credit. Removes the economic development for a growing economy (EDGE) board from the administration of the Hoosier business investment tax credit. Provides that a taxpayer's state tax liability growth is always computed using the taxpayer's base state tax liability. Provides that the credit is available for hiring new employees. Removes the expiration date for the credit. Provides that for a pass through entity the proportional amount of the credit to which a partner or shareholder of the pass through entity is entitled is applied against the partner's or shareholder's state tax liability.

Effective: January 1, 2006.

Ford

January 4, 2005, read first time and referred to Committee on Tax and Fiscal Policy.

Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 91

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-13-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 12. (a) The economic development for a growing economy board is established. The board consists of the following seven (7) members:

(1) The director or, upon the director's designation, the executive director of the department of commerce.
(2) The director of the budget agency.
(3) The commissioner of the department of state revenue.
(4) Four (4) members appointed by the governor, not more than two (2) of whom may be members of the same political party.

(b) The director shall serve as chairperson of the board. Four (4) members of the board constitute a quorum to transact and vote on the business of the board.

(c) The department of commerce shall assist the board in carrying out the board's duties under this chapter. ~~and IC 6-3.1-26.~~

SECTION 2. IC 6-3.1-13-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 26. (a) The economic development for a growing economy fund is established to be used exclusively for the purposes of this chapter, ~~and IC 6-3.1-26,~~ including paying for the costs of administering this chapter. ~~and IC 6-3.1-26.~~ The fund shall be administered by the department of commerce.

(b) The fund consists of collected fees, appropriations from the general assembly, and gifts and grants to the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) The money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for the purposes of this chapter. Expenditures from the fund are subject to appropriation by the general assembly and approval by the budget agency.

SECTION 3. IC 6-3.1-26-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 8. (a) As used in this chapter, "qualified investment" means the amount of the taxpayer's expenditures for:

(1) the purchase of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing equipment;
(2) the purchase of new computers and related equipment;
(3) costs associated with the modernization of existing telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;
(4) onsite infrastructure improvements;
(5) the construction of new telecommunications, production, manufacturing, fabrication, assembly, extraction, mining, processing, refining, or finishing facilities;
(6) costs associated with retooling existing machinery and equipment; and
(7) costs associated with the construction of special purpose buildings and foundations for use in the computer, software, biological sciences, or telecommunications industry.

~~that are certified by the board under this chapter as being eligible for the credit under this chapter.~~

(b) The term does not include property that can be readily moved outside Indiana.

SECTION 4. IC 6-3.1-26-10 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 10. As used in this chapter, "state tax liability growth" means the difference between a taxpayer's state tax liability in a taxable year minus ~~the greater of:~~

~~(1) the taxpayer's state tax liability in the most recent prior taxable year in which the taxpayer claimed part of a credit under this chapter; or~~

~~(2)~~ the taxpayer's base state tax liability,

before the application of a credit under this chapter.

SECTION 5. IC 6-3.1-26-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 13. A taxpayer that:

~~(1) is awarded a tax credit under this chapter by the board; and~~

~~(2) complies with the conditions set forth in this chapter and the agreement entered into by the board and the taxpayer under this chapter;~~

(1) makes a qualified investment; or

(2) creates the number of jobs required under section 13.5 of this chapter;

is entitled to a credit against the taxpayer's state tax liability in a taxable year.

SECTION 6. IC 6-3.1-26-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 13.5. To qualify for a credit under section 13(2) of this chapter, a taxpayer must increase in a particular taxable year the number of the taxpayer's employees working in Indiana by:**

(1) at least ten (10), in the case of a taxpayer having at least one hundred (100) employees on the first day of the taxpayer's taxable year; or

(2) at least ten percent (10%), in the case of a taxpayer having less than one hundred (100) employees on the first day of the taxpayer's taxable year.

SECTION 7. IC 6-3.1-26-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 14. **(a) This section applies only to a taxpayer entitled to a credit under section 13(1) of this chapter.**

~~(a)~~ **(b)** The total amount of a tax credit ~~claimed~~ **allowed** under this chapter equals thirty percent (30%) of the amount of a qualified investment made by the taxpayer in Indiana. **However, the maximum amount of the credit that a taxpayer may claim in the taxable year in which the taxpayer makes a qualified investment may not exceed the taxpayer's state tax liability growth.**

~~(b) In the taxable year in which a taxpayer makes a qualified investment, the taxpayer may claim a credit under this chapter in an amount equal to the lesser of:~~

~~(1) thirty percent (30%) of the amount of the qualified investment; or~~

~~(2) the taxpayer's state tax liability growth.~~

(c) The taxpayer may carry forward any unused credit.

SECTION 8. IC 6-3.1-26-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 14.5. (a) This section applies only to a taxpayer entitled to a credit under section 13(2) of this chapter.**

(b) The total amount of a tax credit allowed under this chapter equals thirty percent (30%) of the amount of wages and benefits paid to the taxpayer's new employees in the taxable year in which the new employees were first employed. However, the maximum amount of the credit that a taxpayer may claim in the taxable year in which the new employees were first employed may not exceed the taxpayer's state tax liability growth.

(c) The taxpayer may carry forward any unused credit.

SECTION 9. IC 6-3.1-26-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 15. (a) A taxpayer may carry forward an unused credit for not more than nine (9) consecutive taxable years beginning with the taxable year after the taxable year in which the taxpayer makes the qualified investment **or hires the number of new employees required under section 13.5 of this chapter.**

(b) The amount that a taxpayer may carry forward to a particular taxable year under this section equals the lesser of the following:

(1) The taxpayer's state tax liability growth.

(2) The unused part of a credit allowed under this chapter.

(c) A taxpayer may:

(1) claim a tax credit under this chapter for a qualified investment **or for hiring the number of new employees required under section 13.5 of this chapter;** and

(2) carry forward a remainder for one (1) or more:

(A) different qualified investments; **or**

(B) credits claimed for hiring the number of new employees required under section 13.5 of this chapter;

in the same taxable year.

(d) The total amount of each tax credit claimed under this chapter may not exceed:

(1) thirty percent (30%) of the qualified investment for which the tax credit is claimed, **in the case of a taxpayer that qualifies for a tax credit under section 13(1) of this chapter; or**

(2) thirty percent (30%) of the amount of wages and benefits paid to the taxpayer's new employees in the taxable year in which the new employees were first employed, in the case of a taxpayer that qualifies for a tax credit under section 13(2) of this chapter.

SECTION 10. IC 6-3.1-26-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 16. If a pass through entity does not have state tax liability ~~growth~~ against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit **against the shareholder's or partner's state tax liability** equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

SECTION 11. IC 6-3.1-26-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 19. A person is not entitled to claim the credit provided by this chapter for any jobs that the person relocates from one (1) site in Indiana to another site in Indiana. ~~Determinations under this section shall be made by the board.~~

SECTION 12. IC 6-3.1-26-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: Sec. 26. ~~(a)~~ This chapter applies to taxable years beginning after December 31, 2003.

~~(b) Notwithstanding the other provisions of this chapter, a taxpayer is not entitled to a credit for a qualified investment made after December 31, 2007. However, this section may not be construed to prevent a taxpayer from carrying an unused tax credit attributable to a qualified investment made before January 1, 2008, forward to a taxable year beginning after December 31, 2007, in the manner provided by section 15 of this chapter.~~

SECTION 13. IC 6-3.1-26-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2006]: **Sec. 27. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department of state revenue. The taxpayer shall submit to the department of state revenue all information that the department of state revenue determines necessary for the calculation of the credit provided by this chapter and for the**

determination of whether the taxpayer made a qualified investment as required under section 13 of this chapter or hired the number of new employees required under section 13.5 of this chapter.

SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2006]: IC 6-3.1-26-2; IC 6-3.1-26-3; IC 6-3.1-26-5; IC 6-3.1-26-12; IC 6-3.1-26-17; IC 6-3.1-26-18; IC 6-3.1-26-20; IC 6-3.1-26-21; IC 6-3.1-26-22; IC 6-3.1-26-23; IC 6-3.1-26-24; IC 6-3.1-26-25.

SECTION 15. [EFFECTIVE JANUARY 1, 2006] **(a) IC 6-3.1-26-13.5, IC 6-3.1-26-14.5, and IC 6-3.1-26-27, all as added by this act, apply to taxable years beginning after December 31, 2005.**

(b) IC 6-3.1-26-8, IC 6-3.1-26-10, IC 6-3.1-26-13, IC 6-3.1-26-14, IC 6-3.1-26-15, IC 6-3.1-26-16, IC 6-3.1-26-19, and IC 6-3.1-26-26, all as amended by this act, apply to taxable years beginning after December 31, 2005.